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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/078,406	02/21/2002	Ken-Ichi Nakaya	PNDF-01221	5647
7590	02/10/2004		EXAMINER	
McGinn & Gibb, PLLC Suite 200 8321 Old Courthouse Road Vienna, VA 22182-3817			PRASAD, CHANDRIKA	
			ART UNIT	PAPER NUMBER
			2839	
DATE MAILED: 02/10/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/078,406	NAKAYA, KEN-ICHI
	Examiner Chandrika Prasad	Art Unit 2839

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 23 December 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 17
- 4) Claim(s) 2,4,6-9,12,13,15,16 and 18 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 - 5) Claim(s) _____ is/are allowed.
 - 6) Claim(s) 2,4,6-9,12,13,15,16 and 18 is/are rejected.
 - 7) Claim(s) _____ is/are objected to.
 - 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/7/02</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Election/Restrictions

1. Claims 3, 5, 10, 11, 14, 21 and 23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Species II (Figures 19-22), there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper dated 12/23/2003.

In Paper dated 12/23/2003, the applicant has cancelled these claims (3, 5, 10, 11, 14, 21 and 23) and Claim 1.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the following must be shown and identified by a reference numeral or the feature(s) canceled from the claims 2, 4, 6-9, 12, 13 and 15-18. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

- An optical waveguide.
- A tape core section.
- Optical fiber units.
- Two fixed portions.

3. The drawings are objected to because the description for reference numeral 111 should be "fiber cord" instead of "fiber code". A proposed drawing correction or

corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 2, 4, 6-9, 12, 13 and 15-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

A tape fiber formed into a tape and fixed between two portions and fiber units as required by the independent claim 2 have not been described in the specification.

6. Claim 18 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The fiber array consists of four tapes, each tape having 12 fibers. Hence the pitch of the fibers in the array is the same as the pitch of the fibers in the tape. It cannot be different as claimed.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 2, 4, 6-9, 12, 13 and 15-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. Claim 2 recites the limitation "the whole" in line 4; "fixation side" in line 5; "the whole of the position" in line 8 and "the two fixed portions" in line 8. There are insufficient antecedent basis for these limitations in the claim.

10. Claims 2, 4, 6-9, 12, 13 and 15-18 are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention. Evidence that claim 2 and its dependent claims 4, 6, 7, 8, 9, 12, 13, 15, 16 and 18 fail(s) to correspond in scope with that which applicant(s) regard as the invention can be found in the specification filed 2/21/2002. In that paper, applicant has stated and shown in the figures that the fiber cord comprises a plurality of tapes, each tape having a core with a plurality (12) of fibers arranged, and this statement indicates that the invention is different from what is defined in the claim(s) because the independent claim 2 recites a tape fiber comprising a plurality of fibers and formed into a tape. The claim 2 is very confusing and not clear as to what is really being claimed.

11. Claim 2 recites "an optical fiber array" in line 1 and " a fiber array" in line 2. Are these two the same or different?

12. Claim 4 recites the limitation "the region" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claims 2, 4, 6-9, 12, 13, 15 and 17-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Applicant's admitted prior art (AAPA).

AAPA (Figures 1-7 of the instant invention) shows an optical fiber cord 111 having an optical fiber array 112 connected to an optical waveguide wherein the cord consists of four tapes 113, each tape having a core with a plurality (12) of fibers 115 which are separated between two fixed portions in a number (4) of units which is less than the total (48) number of fibers, the number of units covered by a protective tube 132 fixed at predetermined positions and the fibers are rearranged in the tube 132 as shown in Figure 6. The fibers are arranged at a spacing of 125 μm which is substantially the half of general optical spacing of 250 μm .

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA.

AAPA shows all the features of this claim except the material of the protective tube. It would have been obvious to one having ordinary skill in the art at the time of the instant invention to make the tube of flame-retardant material because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended i.e., to protect against fire. In re Leshin, 125 USPQ 416.

Contact Information

17. Any correspondence to this action may be mailed to:

**Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450**

Hand-delivered responses should be brought to:

**Crystal Plaza 4, Fourth Floor (receptionist)
2201 South Clark Place, Arlington, Virginia**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chandrika Prasad at (571) 272-2099. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn Feild, can be reached at (571) 272-2092. The fax number for this Group is (703) 872-9306. Any inquiry of a general nature should be directed to the Group receptionist at (703) 308-1782.



Chandrika Prasad
Primary Examiner
February 2, 2004